

GOVERNOR'S TASK FORCE ON RACIAL PROFILING

Executive Summary

Background and Composition of the Task Force

In November 1999, Governor Tommy G. Thompson created the Governor's Task Force on Racial Profiling. Governor Thompson charged the Task Force with the responsibility of studying and making recommendations on the use of profiling when conducting traffic stops in Wisconsin. The State of Wisconsin has a proud tradition of having some of the finest and most professional police officers in the nation. However, based on national trends and legislative activity on this issue, Governor Thompson determined there existed a need for education and leadership on the issue.

To accomplish the important mission of the Task Force, Governor Thompson assembled an accomplished group of civic leaders in Wisconsin. This diverse group represented community based service agencies, the legislature, law enforcement, academia and the defense bar. The Governor appointed Judge Maxine Aldridge White, an experienced jurist and a former federal prosecutor, to lead and chair the group.

From a law enforcement perspective, Governor Thompson appointed the heads of five of the largest law enforcement agencies in Wisconsin: Milwaukee County Sheriff Lev Baldwin, Kenosha County Sheriff Larry Zarletti, City of Milwaukee Police Chief Arthur Jones, City of Madison Police Chief Richard Williams and Wisconsin State Patrol Superintendent David L. Schumacher. District Attorney Patricia Ramirez, a respected prosecutor from Dodge County, was appointed to represent the Office of the District Attorneys.

From a legislative perspective, Senator Gwendolynne Moore, Representative Pedro Colon, Senator Peggy Rosenzweig and Representative Robert Goetsch were appointed. Each legislative representative had shown leadership in the legislative arena on this issue or other criminal justice issues, which were similar in part to this issue. For example, Senator Moore had been particularly proactive in developing legislation on the issue.

From the community perspective, top leaders from some of the strongest community service organizations were appointed. These leaders included: Mr. William

Clay, Opportunities Industrialization Center of Greater Milwaukee, Mr. David Espinoza, LaCausa, Inc., Mr. Gerard Randall, Private Industry Council of Milwaukee, and Ms. Julia Taylor, YWCA of Greater Milwaukee. Attorney Jennifer Bias, Director of Community Initiatives for the State Public Defenders Office, was selected to represent the defense bar. Professor Phoebe Weaver Williams, a distinguished associate professor of law at Marquette University, was selected to present an academic viewpoint. Ex-officio member, Ms. Leticia Smith, was added to provide valuable insight from her experience as the Chief Court Administrator for Milwaukee Municipal Court.

Mission

The Task Force held its initial meeting on January 11, 2000 and completed its work on November 29, 2000. At the first meeting, the members of the Task Force unanimously adopted the following Mission Statement:

1. To study whether and to what extent there exists a pattern or practice of law enforcement traffic stops based on racial profiling;
2. To determine and examine public perception on the issue of racial profiling;
3. To collect and analyze data on traffic stops;
4. To explore solutions and make recommendations to the Governor and other appropriate entities by December 2000.

Methodology

The Task Force utilized an educational and investigative outreach approach to study the issue of racial profiling by collecting information from monthly public meetings and public hearings. During the first five months, nationally recognized experts spoke at the Task Force meetings. Beginning in June 2000, public comment forms, which were developed by the Task Force, were made available to the public. These forms could be used by individuals, community based organizations, or others who were either unavailable during monthly meetings or who wished to maintain anonymity while presenting opinions or experiences to the Task Force. The public comment forms could also be obtained by contacting Judge White or by visiting various media outlets and organizations.

During this process the Task Force received insight from national legal and law enforcement experts on the complex and multifaceted issues involved in defining and addressing racial profiling, and on the methodology for studying the issue. Specifically, the experts discussed the definition of racial profiling, the legal and constitutional concerns implicated by racial profiling, the federal response to racial profiling, and local perspectives on addressing the issue. The Task Force gained a working knowledge of law enforcement procedure and legal issues surrounding traffic stops through a series of presentations from Wisconsin law enforcement and other specialists. The Task Force also examined data collection methods used by law enforcement across the country. These experts agreed that data collection is a useful tool in identifying racial profiling and determining initiatives to address the issue. They also agreed that data collection should be done in a manner that results in: (1) Data which is valid and applicable; (2) Data which can be subjected to credible analyses using the appropriate benchmarks; (3) Credible analyses from which conclusions can be drawn and used by local law enforcement jurisdictions to identify issues for management purposes and for community outreach.

Based on its research, the Task Force discovered that racial profiling can be defined in various ways. The Task Force, however, adopted a broad definition of racial profiling. After applying knowledge gained from reviewing nationwide information with the opinion and perception information gathered from Wisconsin citizens to this definition, the Task Force concluded that there is anecdotal evidence of the occurrence of racial profiling in Wisconsin. However, without empirical data, the Task Force was unable to comment on the extent of the racial profiling problem in Wisconsin. The Task Force did not attempt to collect empirical data; the national experts who presented information on data collection demonstrated that such procedures are too extensive and analyses too complex to be performed in a limited context.

The Task Force focused on gathering educational information from national and local experts, and on inviting law enforcement agencies and organizations, community based organizations with an equal rights focus, and the general public to provide input to the Task Force by presenting opinions, experiences, position statements, or anecdotal evidence. Some members of organizations and some individual citizens expressed

apprehension about providing information to the Task Force, whose members included justice and law enforcement officials, indicating a fear of reprisal or other negative results.

Law enforcement agencies and organizations also expressed concerns about the implications of the Task Force findings. Law enforcement did not want to be labeled as “racists” because they did not feel that police officers in Wisconsin practiced or condoned racial profiling. The law enforcement community is sensitive to the concerns associated with racial profiling and offered recommendations to address this issue. Their statements addressed concerns for safety and rights of all citizens, and the safety, duty, and time constraints of law enforcement. Law enforcement agencies and organizations provided input to the Task Force on the issue of racial profiling generally, and on specific suggestions for addressing the issue in Wisconsin. Law enforcement recognizes the effectiveness of a collaborative and cooperative approach with the community in addressing a difficult problem to define and address.

This report summarizes the information received through the public meetings and public hearings, and public comment form process. The Task Force considered the information as presented, and did not undertake any effort to verify the truthfulness or accuracy of the information received. This report also discusses the research and comments that were provided to the Task Force by national and local experts, academia, law enforcement and the key federal prosecutor experienced in the realm of racial profiling. The findings and recommendations were made based upon the Task Force’s review and analysis of this information.

Findings and Recommendations

FINDINGS

After considerable deliberation on the educational and investigative outreach to national and local experts, input from local law enforcement, community based organizations and individuals, and other submissions, the Task Force makes the following findings:

FINDING: *Racial profiling is a national issue and there is anecdotal evidence of its occurrence in Wisconsin. From statements and complaints solicited by Task Force members on the topic of racial profiling in traffic stops the Task Force learned:*

- A diverse population of citizens from various racial and ethnic groups, of varying economic status and professions, different age groups and gender, and from communities in urban and rural areas in the State of Wisconsin all complained of some degree of racial profiling.
- Procedures used to collect information from individuals and organizations about experiences and perceptions on racial profiling produced results similar to those produced in other areas of the country such as a low response rate from the public, while also revealing some profound statements identified from those reported perceptions about or experiences with racial profiling.
- Citizen complaints conveyed to the Task Force shared common threads, and the four most common types of complaints include:
 1. Traffic stops made because the driver “did not belong” in the car he was driving or in the neighborhood in which he was located;
 2. Rude officer behavior and negative law enforcement attitudes during traffic stops;
 3. Language and communications barriers; and
 4. Ineffective complaint processes.

FINDING: *The term “racial profiling” has many different definitions.*

FINDING: *The Task Force and experts agree that public perceptions of racial profiling erode public confidence and trust in law enforcement making it more difficult for law enforcement to perform their duties and responsibilities.*

FINDING: *The Task Force and experts agree that law enforcement in Wisconsin should adopt written policies prohibiting racial profiling.*

FINDING: *The Task Force and experts agree that law enforcement in Wisconsin should communicate written policies prohibiting racial profiling.*

FINDING: *The Task Force, experts, and law enforcement executives in Wisconsin agree that police managers are responsible for the conduct of their officers and as such have the responsibility to provide daily supervision, identify activity trends, receive and review compliments and complaints, and modify officer behavior as necessary.*

FINDING: *Law enforcement in Wisconsin has demonstrated a willingness to voluntarily address even the perception of racial profiling through positive proactive programs, which include supervisory initiatives, enhanced training, initiatives to assist in management information and data systems and community outreach.*

FINDING: *The Task Force, law enforcement agencies and organizations in Wisconsin agreed that even the perception of racial profiling should be affirmatively addressed with proactive, positive measures for law enforcement and the community.*

FINDING: *The extent of racial profiling cannot be determined without empirical study and comprehensive analysis. The Task Force and experts agree that data collection is an appropriate component for addressing racial profiling and is a component in effective management which can help build accountability and protect the integrity of law enforcement agencies and personnel.*

FINDING: *The Task Force acknowledges that data collection is an appropriate component of a law enforcement management information system, which can ensure accountability, and which will protect the integrity of law enforcement agencies and personnel.*

FINDING: *There are few standardized traffic stop documents issued to motorists in Wisconsin similar to the Uniform Traffic Citation (UTC). There is no statewide standard for notices that provide written warnings to motorists for traffic or equipment violations.*

FINDING: *Task Force members and the law enforcement community are interested in new initiatives but are not in favor of unfunded mandates.*

FINDING: *The law enforcement community in Wisconsin, the judicial system in Wisconsin, and the citizens of Wisconsin are all vital components in addressing the issue of racial profiling during traffic stops. It is important that each person in Wisconsin be made aware of what the Task Force has learned about racial profiling including its characteristics, its effects, and its solutions.*

RECOMMENDATIONS

The recommendations which follow attempt to reflect the integrity and sincerity of the Wisconsin law enforcement community to address the problem of racial profiling. They reflect the concepts forwarded through extensive dialogue with law enforcement executives and law enforcement “rank and file” and attempt to find positive and proactive solutions to this complex issue. They also reflect the vital concerns expressed by the community, judicial, legislative and academic representatives both as members of the Task Force and from outreach efforts by the Task Force. A review of the problems and approaches of law enforcement and communities throughout the United States also played a part in the development of the Task Force recommendations. The numerous presentations and documents from resources outside of Wisconsin provided a more comprehensive view of the issue than would have been possible if focus had been only from our own experiences and resources. The issue of racial profiling is not unique to Wisconsin, and there are lessons to be learned from listening to others. As well, there is no one solution to the problem, and recommended solutions are not performed in a vacuum. Each and every recommendation must be viewed as a part of the “whole package”, interdependent and cooperative, interrelated and connected to the whole. Profiling may be an omnipresent problem in the United States, but it is approachable. It is an issue that requires careful thought, widespread communication and absolute integrity.

The recommendations from the Task Force reflect a universal approach to law enforcement which encompasses: 1) administrative and supervisory initiatives and responsibility to identify and address the issue; 2) administrative and supervisory action to communicate the issue and monitor personnel; 3) law enforcement responsibility to develop and perform diverse and required training; 4) extensive community outreach and education on law enforcement accessibility, duties and policies; 5) voluntary local data collection; and 6) the use of funding for improved equipment technologies and document revisions. The recommendations are offered not in priority order, but in order of implementation, reflecting a practical administrative approach to implementation, with the understanding that some of the efforts can be initiated and implemented simultaneously and in coordination with other efforts. The specific recommendations are listed below:

RECOMMENDATION: *A uniform definition of racial profiling¹ must be used in all relevant law enforcement traffic stop policies and procedures in Wisconsin. The Task Force recommends the following definition of racial profiling:*

Any police initiated action that relies upon the race, ethnicity, or national origin of an individual rather than the behavior of that individual, or information that leads the police to a particular individual who has been identified as being engaged in or having been engaged in criminal activity. Two corollary principles follow from this definition:

1. Police may not use racial or ethnic stereotypes as factors in selecting whom to stop and whom to search;
2. Police may use race or ethnicity to determine whether a person matches a specific description of a particular suspect.

RECOMMENDATION: *Law enforcement executives shall establish clear written policies which prohibit racial profiling or race-based decisions by law-enforcement that incorporate the definition of racial profiling as recommended in this report.*

RECOMMENDATION: *Law enforcement executives shall clearly communicate policies affirming that racial profiling or race-based decisions by law enforcement are illegal and wrong and will not be tolerated. Such policies should be disseminated not only to law enforcement personnel but also to the public at large.*

RECOMMENDATION: *Law enforcement executives shall monitor personnel to ensure that traffic stops are consistently being conducted pursuant to agency policies and procedures, and to ensure race-based traffic stops are not being conducted within their agencies.*

RECOMMENDATION: *Law enforcement should institute or enhance training for Wisconsin law enforcement personnel, both recruit and in-service training to prevent racial profiling, in cooperation with the Wisconsin Department of Justice Training and Standards Bureau and the Law Enforcement Standards Board, including programs in the areas of:*

- The Law Enforcement Code of Ethics
- Cultural Diversity
- Interpersonal and Communications Skills
- The Equal Protection Clause (14th Amendment)
- Federal Laws which prohibit racial and ethnic discrimination in law enforcement traffic contacts.

¹ This definition of racial profiling is contained in the November 2000 Report which was prepared for and funded by the United States Department of Justice (USDOJ). Exhibit 9.

RECOMMENDATION: *Law enforcement agencies should use the standardized traffic stop protocols developed by the Wisconsin Department of Justice Training and Standards Bureau.*

RECOMMENDATION: *Law enforcement should engage in community outreach and encourage community input which should include but not be limited to;*

- The development and distribution of a brochure explaining traffic stop protocols and procedures for submittal of citizen letters of compliment and complaint about law enforcement contacts;
- The development and promotion of an extensive public education program (e.g. public service announcement, community meetings) on the appropriate procedures and policies of law enforcement personnel;
- The creation of information cards to distribute to motorists at the conclusion of every traffic stop where no citation or written information is given identifying the law enforcement agency making the stop;
- Sponsoring and attending community meetings to address concerns, identify solutions, and discuss agency performance.

RECOMMENDATION: *Law enforcement agencies should review and make modifications as necessary to citizen complaint procedures ensuring they are easily accessible and clearly inform citizens on how and where to contact law enforcement and to file letters of compliment and complaint.*

RECOMMENDATION: *Law enforcement executives have demonstrated a willingness to voluntarily collect local data on traffic stops. National and local experts and the Task Force have determined effective traffic stop data collection systems should include the following criteria:*

- Minimum data to be collected:
 1. Motorist race or ethnicity;
 2. Motorist gender;
 3. Location of the traffic stop;
 4. Reason for the traffic stop;
 5. Indication of any search conducted during the traffic stop; and
 6. Outcome of the traffic stops.
- Methodology of collection;
- Officer procedures for data collection at traffic stops;
- The establishment of comparative benchmarks to be used.

RECOMMENDATION: *Based on information from national and local experts, it is strongly recommended that law enforcement agencies collect the necessary data to address racial profiling in an organized manner that permits the development of meaningful and useful information.*

- The law enforcement community should explore developing partnerships with academic, governmental, and other qualified institutions that can assist with the development of internal and external benchmarks and analysis of data;
- The results of data analysis should be used by law enforcement in the design and development of officer training programs, officer and agency evaluation, and crime prevention strategies and techniques;
- Law enforcement agencies should disseminate their findings to the public regardless of whether the data analysis does or does not indicate a problem of racial profiling.

RECOMMENDATION: *The Department of Transportation should conduct a study of a uniform traffic warning/equipment repair notice for Wisconsin. The study should include the need for, the fiscal impact of, and the administration and effect on individual motorists driving records.*

RECOMMENDATION: *Law enforcement should be encouraged to use in-car video cameras provided primarily through public funding alternatives.*

RECOMMENDATION: *Appropriate funding of initiatives should be sought from federal, state and local government and private sources and provided to law enforcement to establish programs to address the perception and problem of racial profiling during traffic stops. These programs include, but are not limited to:*

- Traffic stop data collection and analysis;
- Community outreach by law enforcement;
- In-car video cameras;
- Outside resource collaboration for traffic stop data collection and analysis;
- Computer technology.

RECOMMENDATION: *The Task Force recommends that copies of this report be widely distributed, including but not limited to:*

- The appropriate Senate and Assembly Committees of the Wisconsin Legislature;
- The Wisconsin Attorney General;
- The Secretary of the Department of Transportation;
- The Secretary of the Department of Administration;
- Wisconsin law enforcement executives: Sheriffs, Chiefs of Police, and Superintendent of Wisconsin State Patrol;
- Wisconsin law enforcement unions and associations; and
- Community-based organizations with an interest in this issue.

RECOMMENDATION: *The Executive Summary to this report should be available on the Internet for public review.*

Conclusion

The Task Force has engaged in considerable investigation, study, assessment, debate, and evaluation in reaching findings and recommendations. The Task Force greatly appreciates the significant input it received from many sources. The efforts and collaboration, which occurred during this process, have made this a challenging yet rewarding experience. It is the hope of the members of the Task Force that the contents, findings and recommendations of this report will serve as a guide and blueprint for future action, as well as a catalyst for further positive collaboration to change in the realm of racial profiling.